

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

<b>ePLUS INC.,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>Civil Action No. 3:09-CV-620 (REP)</b>
	)	
<b>v.</b>	)	
	)	
<b>LAWSON SOFTWARE, INC.,</b>	)	
	)	
	)	
<b>Defendant.</b>	)	

**PLAINTIFF ePLUS INC'S OBJECTIONS TO DEFENDANT'S COUNTER  
DEPOSITION DESIGNATIONS, COUNTER-COUNTER DESIGNATIONS AND  
REVISED SUMMARY OF THE DEPOSITION OF GUENTHER TOLKMIT**

Plaintiff, ePlus, Inc. ("ePlus"), through counsel, hereby submits the following specific objections to Defendant Lawson Software, Inc. Counter-Deposition Designations of the deposition of Guenther Tolkmith and offers the following revised summary:

**Specific Objections**

Defendant's Counter Designations	ePlus's Objections to Defendant's Counter-Designations
8:18-19	
10:18 – 11:10	
18:2-19; 19:11-18	
46:11 – 47:11	402
63:21 – 64:9	
64:14 – 65:5	
148:7-12	

<b>Defendant's Counter Designations</b>	<b>ePlus's Objections to Defendant's Counter-Designations</b>
177:16-18	
179:4-13	
180:17 – 181:8	
180:20 – 182:7	
226:19-22; 247:4-6; 247:18 – 248:7	247:4-6, 247:18-248:7 – 402

### **Guenther Tolkmith**

Guenther Tolkmith is currently employed at Lawson Software. (8:18-19) At the time of his deposition, Guenther Tolkmith was the Senior Vice President of Product Development. (10:15-17) He has held that title since 2006. Before Lawson Mr. Tolkmith was employed at Intenia which merged with Lawson. He was the Chief Technology Officer at Intenia and before that he was the Vice President of Support and Delivery. (10:18 – 11:10) He had been an employee of Lawson Software for about three and a half years. (10:12-14) In his role as SVP of Product Development, he is responsible for delivering on the requirements that are brought to the product management team. (11:11-19) He manages product deadlines and the source code quality. (11:11-19)<sup>1</sup>

Lawson Software Production Factory (SPF) does quality assurance, system integration test, load test, and releases the product to the download page. SPF does not change any code for individual customers. (46:11 – 47:11) License management is the process by which Lawson builds a product out of the individual software modules that are available for license. (49:15-22) The price list comprises the entities that Lawson deems to be saleable to customers. (50:1-51:1) Some products that are marketed by Lawson are just different configurations of particular existing products. (52:6-53:6)

Lawson creates at least two sets of documents that are common to all of its products – release notes and installation notes. (62:19-63:4) The release notes describe the differences between a current version of a product and the prior versions of that same product. (63:5-20) It is a report of the net changes from version to version. (63:5-20) All future new Lawson products will have release notes for the first version of the product which discuss the major features of the new product. (63:21 – 64:9) Release notes will be issued each time Lawson releases an update of the product. (64:10-13) Lawson introduced this release notes policy in August of 2009. Before August 2009, release notes were released in some areas but not others. (64:14 – 65:5)<sup>2</sup> The installation notes explain to a customer how to install a product, and they are provided to the customer along with their newly licensed software. (65:9-17)

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<sup>1</sup> Lawson proposes to include, “Before working at Intenia, Mr. Tolkmith worked at Parsytec where he was the Chief Operating Officer. As the Chief Operating Officer he was responsible for all sales, services and products. When he joined Parsytec in 2001 he held the position of CEO. (18:2-19) Before working at Parsytec Mr. Tolkmith worked at SAP where he was the Senior Vice President Venture Capital.” ePlus objects to the designated testimony underlying this sentence on relevance (FRE 402) grounds, and thus also objects to the inclusion of this sentence.

<sup>2</sup> Lawson proposes that the summary read, “All future Lawson products will have the first version of the release notes which discusses the major features of the new product. (63:21 – 64:9) Release notes are created every time a new version of software is released. (64:10-13) Lawson introduced the first version of the release notes in August of 2009. Before August 2009 there was no consistent equivalent of these releases. The new release notes were released in some areas but not others.” ePlus objects on the basis that this statement mischaracterizes the witness’ testimony. ePlus’s version of the summary accurately reflects the portions of the transcript that were counter-designated by Lawson.

Lawson Smart Office is a user experience to provide an interface for Lawson's M3 and S3 products. (106:2-107:12) The same source code for Smart Office is used for M3 and S3. (146:7-12) Smart Office features the Process Flow Integrator, which is a workflow engine. (147:8-148:6) Mr. Tolkmith is not sure if process flow integrator is used with the SCM suite S3 but knows that is used with the SCM suite of M3. (148:7-12)

The graph shown on page 277 of Exhibit 18 correctly represents the architecture of the product. (177:16-18) The Lawson System Foundation and Process Flow are parts of the business process platform. (178:7-179:3) Lawson System Foundation is written in JAVA code and is used across both M3 and S3. (180:14-19; 181:9-19) The language of the platform technology foundation is actually multiple parts but it is mostly in JAVA. (180:17 – 181:8) The S3 application foundation is code-specific to the S3 and can not also be used for the M3. It is written in Cobalt [sp.] and RPG languages. (181:20 – 182:7)

As far as Mr. Tolkmith is aware, Lawson has not made any changes to its current products as a result of this current lawsuit, and Mr. Tolkmith's group has not undertaken any efforts to design around the *ePlus* patents in this suit. (175:10-12; 227:1-6)<sup>3</sup>

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<sup>3</sup> Lawson proposes to include the following sentences, "Mr. Tolkmith has never heard of Procure Plus or Content Plus. (226:19-22) Mr. Tolkmith has never heard of a product called ProcureNet (247:4-6) Mr. Tolkmith was not aware of *ePlus* during his time at SAP or Parsytec. He also was not aware the *ePlus* sued Lawson during his time at Lawson." *ePlus* objects to the designated testimony underlying these sentences on relevance (FRE 402) grounds, and thus also objects to the inclusion of these summary sentences.

Respectfully submitted,

/s/

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Dated: August 11, 2010

**CERTIFICATE OF SERVICE**

I hereby certify that on the 11th day of August, 2010, I will electronically file the foregoing

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with the Clerk of Court using the CM/ECF system which will then send a notification of such filing (NEF) via email to the following:

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